

### **107.030 Procedure for use of alternate method.**

If a municipality desires to authorize, construct, and finance an improvement pursuant to this chapter, its governing body shall initiate the proceedings by adopting an ordinance, herein called the "First Ordinance," in which announcement shall be made of the public way or ways (which need not be contiguous) proposed to be improved and the geographical limits of the proposed improvement in such manner as to identify the benefited properties or the identity of the property or properties to be benefited by the fire hydrant in cities of the third through sixth classes or by the sewer installations (which may include a sewage treatment plant) which properties may be identified by naming the public way or ways upon which they abut, if any, or by geographical location, or both. In either case the ordinance shall recite the nature and scope of the improvement, a preliminary estimate of the costs thereof, as submitted in writing by an engineer, or firm of engineers, holding a license from the Commonwealth of Kentucky, and the amount, if any, which the city proposes to appropriate from available city funds toward the estimated cost. Any metropolitan sewer district desiring to initiate a wastewater collection project pursuant to this chapter shall, by order of its board cause a written preliminary engineering and financing report to be prepared by one (1) or more engineers, or one (1) or more firms of engineers, licensed to do business in the Commonwealth of Kentucky, or alternatively, by district personnel, for submission to the district. The preliminary engineering and financing report shall designate a geographical area in which a wastewater collection project is recommended for construction. The report shall contain a reasonable description of the project facilities proposed to be constructed, a statement as to benefits to be conferred by the proposed project, the distribution of the benefits and an estimate of the cost of the proposed project. The board of the district shall receive the preliminary engineering and financing report at a regular meeting. The board shall study and evaluate it, and by duly entered order either approve, disapprove the report as submitted, or amend and approve the report. Following approval of the preliminary engineering and financing report by the board of the metropolitan sewer district, the board shall formally initiate proceedings for the construction and financing of the proposed wastewater collection project. This announcement shall identify all benefited properties by naming the public way upon which such benefited properties abut, if any, or by geographical location, or by other appropriate description. The first ordinance shall describe the nature, scope and preliminary cost estimate of the wastewater collection project being proposed. The ordinance shall determine that each parcel of land identified as benefited property shall be afforded benefits by the projects unless specifically excluded. A public hearing shall be held in respect of the proposed wastewater collection project. In all succeeding proceedings, the city shall be bound and limited by the preliminary report of the engineer, or engineers, with regard to the nature, scope, and extent of the proposed improvement project (unless the first ordinance be amended, as hereinafter provided); but shall not be bound by, or limited to, the preliminary estimate of costs. The costs shall be determined upon the basis of construction bids publicly solicited as hereinafter provided, and shall be binding upon the city, and upon the owners of property to be benefited by the proposed improvement project, whether the same turn out to be equal to, below, or above such preliminary estimate. Architects, attorneys, consultants, engineers, and fiscal agents shall be employed after reasonable advertisement

of the need for their services and with such competition as is permitted by law. In a first ordinance for a wastewater collection project, the board of a metropolitan sewer district shall make findings of fact regarding the degree and nature of the benefit which will accrue to benefited properties by the installation of the project. If the board determines as a fact that groups of or all of the benefited properties will be affected and benefited in substantially the same manner and to substantially the same degree, the board may classify such benefited properties into one (1) or more assessment zones based upon the similarity of benefits to be derived. In such case, the board may deem all benefited properties within a particular assessment zone to be equally benefited and therefore equally treated for purposes of levying improvement benefit assessments for amortization of bonds issued to provide funds to pay the costs of the project. It is the intent of KRS Chapters 76 and 107 to vest in the board of any metropolitan sewer district undertaking a project authority to make findings of fact in order to classify properties according to benefits conferred from the construction of projects. The board may, by appropriate order, determine that identified groups of benefited properties will be benefited in substantially the same manner by a project and these properties shall be treated equally for purposes of annual improvement benefit assessment of such benefited properties. The board may rely upon any pertinent data in making such findings of fact, including the size and diameter of sanitary sewer service connections to be made available. If the board of the district determines that all properties situated within a particularly described geographic area will not receive substantially equal benefits from the project, the board shall determine in the first ordinance that such properties shall be annually assessed for benefits conferred based upon the relative assessed land valuation of each benefited property as it relates to the aggregated assessed land valuation of all benefited properties within such particularly described geographic area. Whichever basis of assessment is selected, it shall be used both initially, when land owners may pay improvement benefit assessments in a lump sum, and subsequently during each annual period in which project bonds are outstanding if a lump-sum payment is not paid. The first ordinance shall provide for a public hearing at a time and place specified therein (not less than one (1) week after publication) and shall give notice that at the hearing any owner of property to be benefited may appear and be heard as to:

- (1) Whether the proposed project should be undertaken or abandoned;
- (2) Whether the nature and scope of the project shall be altered;
- (3) Whether the project shall be financed through the issuance of bonds according to the "assessed value basis," authorized by this chapter; or
- (4) Whether the project shall be financed through assessments made and apportioned on a front-foot basis, as may otherwise be authorized by law. The first ordinance shall be published pursuant to KRS Chapter 424. The first ordinance may designate a person, who may be the mayor, a member of the governing body, or any city official, to preside at and conduct such public hearing. In the absence of a designation in the ordinance, the mayor or a person designated by the mayor shall preside. Notwithstanding the foregoing, the public hearing shall not be deemed irregular or improper if it is in fact presided over and conducted at the designated time and place by any elected city officer or member of the governing body.

**Effective:** July 15, 1986

**History:** Amended 1986 Ky. Acts ch. 23, sec. 9, effective July 15, 1986. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 13, sec. 11. -- Amended 1970 Ky. Acts ch. 92, sec. 21. -- Amended 1966 Ky. Acts ch. 239, sec. 120. -- Amended 1964 Ky. Acts ch. 161, sec. 2. -- Amended 1960 Ky. Acts ch. 226, sec. 3. -- Created 1956 Ky. Acts ch. 239, sec. 3.